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SUBJECT: NCRC "FINISHES" REFERENDUM LAW, BUT FIVE BIG ISSUES REMAIN

REF: KHARTOUM 807

¶1. (SBU) SUMMARY: Professor Abdulla Idris, co-chairman of the National Constitutional Review Commission (NCRC) told Poloff August 11 that the NCRC has finished its work on the Referendum Law, but he noted that disputed provisions related to the electoral system, eligible voters, voting process, referendum commission, and post-referendum arrangements remain. The NCP and SPLM also disagree on when the bill should be introduced in the National Assembly. Professor Idris said he hopes that the U.S. Special Envoy will take the lead to find middle ground with the parties on the Referendum Law. END SUMMARY.

¶2. (SBU) On August 11, poloff met with Professor Abdulla Idris, Co-chairman of the NCRC. Idris confirmed that the NCRC has finished its work on the Referendum Law, but that a number of important issues are outstanding. The leadership of the NCRC is unable to resolve these issues, he said, and so they will have to be worked out in discussions between the political parties.

Referendum Law: Five Major Issues Outstanding

¶3. (SBU) While reports of outstanding issues differ, five areas of disagreement are clear:

-- Electoral System: The NCP wants a fixed percentage of total eligible Southern voters that must vote to create a large enough quorum to legitimize the vote; the SPLM wants to require only the numbers of voters who choose to participate. The SPLM has suggested the referendum itself be decided by simple majority (50 percent plus one) while the NCP insists on 75 percent.

-- Eligible Voters: The parties disagree on who should be eligible to vote in the referendum. SPLM contends that only Southerners living in the South should be allowed to vote, while the NCP wants the vote extended to the over 400,000 Southerners they contend live in the North and Southerners living abroad.

-- Voting Process: The SPLM wants to use two ballot boxes so that illiterate voters will find the process less confusing; the NCP wants only one box. Both methods raise issues with security and privacy of the vote. Election advisors and UN election officials stated that their suggestions on international standards have not resonated with the parties.

-- Referendum Commission: The SPLM wants the Referendum Commission to be composed of members appointed by the parties, as is the National Election Commission (NEC); the NCP; however, wants the commission to be composed of fifteen members appointed by the presidency.

-- Post Referendum Arrangements: The NCP wants a separate law

covering this while the SPLM favors a separate binding agreement signed by both parties. In the trilateral talks the NCP retreated from its insistence that post referendum arrangements be included in the Referendum law. (Reftel).

NCP: Hold Referendum Law Until 2011 National Assembly

¶4. (SBU) Idris said the NCP has taken the position that the Referendum Law should be introduced in the new National Assembly that is democratically elected in the April 2010 election. According to Idris, NCP officials have remarked that a law so momentous should wait until after the election so that it can be considered by the country's newly elected representatives. Idris is concerned that neither party is ready to make concessions on the outstanding issues.

¶5. (SBU) He expressed appreciation for Special Envoy (SE) Gration's efforts in the Trilateral talks and said he hoped that the SE would help the parties come to an agreement on outstanding referendum issues as well. While Idris, UN Election officials and Election Advisors are confident that the decision must be made at the highest levels of government.

¶6. (SBU) COMMENT: Little attention is being paid to preparations for the Abyei referendum. The NCP's failure to participate in meetings, and proposals that would delay even introduction of the legislation for the Southern Referendum until the 2011 National Assembly, raise doubts as to the party's commitment to the referendum. In addition, there has been a pessimistic tone in the rhetoric of the SPLM about the referendum and increasing evidence of

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fractures within the party, as evidenced by SPLM General Secretary Pagan Amum's remarks about unilateral secession if agreement on the referendum were not reached. Both parties appear locked into hardening positions on the critical issues of the two referenda.
END COMMENT.

WHITEHEAD